

ORIGINAL

FILED

February 12 2014

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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COUNSEL FOR PLAINTIFF AND APPELLEE

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 13-0536

CITY OF MISSOULA,

Plaintiff and Appellee,

v.

MARTIN MULIPA IOSEFO,

Defendant and Appellant.

FILED

FEB 12 2014

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME AND
AFFIDAVIT IN SUPPORT**

The Appellee, State of Montana, respectfully requests a 30-day extension of time until March 21, 2014, in which to prepare, serve, and file its response brief in the

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above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 12th day of February, 2014.

TIMOTHY C. FOX
Montana Attorney General
P.O. Box 201401
215 North Sanders
Helena, MT 59620-1401

By: 
KATIE F. SCHULZ
Assistant Attorney General

STATE OF MONTANA)
 : ss.
County of Lewis and Clark)

I, Katie F. Schulz, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Montana Department of Justice, Office of Attorney General, Appellate Services Bureau, as an Assistant Attorney General.
2. In my capacity as Assistant Attorney General, I have been assigned to handle the above-entitled matter.
3. The State's opening brief was first due on December 21, 2013. The brief is presently due on February 19, 2014. This is Appellee's third request for an extension of time.

4. On February 10, 2014, the undersigned discovered that a relevant audio recording of a lower court evidentiary hearing in this matter was not included in the District Court Record sent to this Court. A request was made for the audio to be sent to the Clerk of Court as soon as possible. The undersigned has not received a copy of the audio and thus needs time to review it prior to filing the State's response brief.

5. In addition to the missing audio delaying completion of the State's response brief, the undersigned's workload has made it difficult to meet the present deadline. My workload is as follows:

a. The undersigned has recently filed response briefs in the Montana Supreme Court in the following cases: *State v. Leskovec*, Case No. DA 13-0201, filed January 12, 2014; *State v. Chilinski*, DA 12-0151, filed January 24, 2014; and *State v. Cudd*, Case No. DA 13-0141, filed January 26, 2014.

b. The undersigned is also preparing response briefs for the following cases: *State v. Broadwater*, Case No. DA 13-0414, will be filed February 18, 2014; *State v. Beaudet*, Case No. DA 13-0287, presently due February 21, 2014; *Walker v. Montana*, OP 14-0031, presently due February 28, 2014; *In re A.M.*, DA-13-0557, presently due March 6, 2014; and an answer to the U.S. District Court in

Anderson v. Brilz, et. al., Case No. CV 13-84-BLG-SEH-CSP, presently
due February 28, 2014.

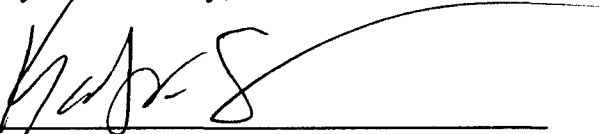
6. An extension of time is necessary so the undersigned can complete an
adequate answer and other responsive pleadings.

7. I will work diligently to complete the matter in the time requested.

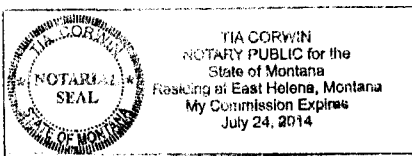
8. Opposing counsel has been contacted concerning this motion and
does not object.

9. Further your affiant sayeth naught.

Respectfully submitted this 12th day of February, 2014.


KATIE F. SCHULZ

SUBSCRIBED AND SWORN to before me this 12th day of February, 2014.





CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing Motion
for Extension of Time to be mailed, first class postage prepaid, to:

Mr. James P. O'Brien
O'Brien Law Office, P.C.
P.O. Box 7936
Missoula, MT 59801-7936

Mr. Gary Hendricks
Senior Deputy Missoula City Attorney
435 Ryman
Missoula, MT 59801

DATED: 2/12/2014 Kim Wellity